



**Qualified Underground Storage Tank Consultants and
Certified Underground Storage Tank Professionals Directive**

December 19, 2007

TO: Qualified Underground Storage Tank Consultants and
Certified Underground Storage Tank Professionals

FROM: Andrew W. Hogarth, Chief
Remediation and Redevelopment Division

SUBJECT: Return of Draft Final Assessment Reports and Draft Closure Reports;
Submission of Proposed Off-Site Institutional Controls

For a number of years, the Michigan Department of Environmental Quality (MDEQ), Remediation and Redevelopment Division (RRD) has accepted Final Assessment Reports (FARs) and Closure Reports in draft form as a means of assisting Qualified Consultants (QCs) in their efforts to generate complete and approvable submittals. While this practice has proved helpful in many instances, it has regrettably imposed a demand on RRD's resources that can no longer be sustained and, in addition, is contrary to the original intent of the Part 215¹ QC certification program and the audit provisions of Part 213.²

Although the RRD will continue to provide input regarding specific technical issues that arise at sites, effective immediately the RRD will no longer accept *draft* FARs or *draft* Closure Reports under the Part 213 program. Draft FARs or Closure Reports received from this point forward will be returned to the owner/operator (O/O) who retained the QC submitting the report for the following reasons:

1. The requirements of Part 213 do not specify the submittal of draft reports to the MDEQ. Part 213 does specify that "a consultant retained by an owner or operator shall complete" the FAR and/or Closure Report. Part 213 also identifies the time frames within which those reports are to be completed.
2. Given the limitation of current staffing resources, it is impracticable for the MDEQ staff to review draft report submittals that are not explicitly required by the statute. The MDEQ expects a QC, to possess the required knowledge and expertise under the certification provisions of Part 215, to complete FARs and Closure Reports with limited guidance from RRD staff.

¹ Part 215, Refined Petroleum Fund (formerly Michigan Underground Storage Tank Financial Assurance [MUSTFA]), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

² Part 213, Leaking Underground Storage Tanks, of the NREPA.

The RRD recognizes that this change in its practices necessitates additional instruction regarding the submission of proposed off-site institutional controls (ICs). Pursuant to Section 21311a(2) of Part 213, proposed off-site ICs must be submitted as part of a FAR and corrective actions must not be implemented until those ICs have been reviewed and approved by the RRD.

In anticipation of inquiries concerning submittal of a proposed IC as a change to an existing Corrective Action Plan (CAP), the RRD provides the following guidance pursuant to the authority set forth in R 324.21501(H)(iv) of the administrative rules promulgated pursuant to Part 215 and QCs are therefore required to undertake the following actions:

1. In a situation where a QC proposes an IC as a change to a pre-existing CAP contained within a FAR that was previously submitted to the MDEQ, and the use of the proposed IC relies exclusively and solely on the information and data contained within that FAR, the QC shall submit the proposed IC using the standard FAR cover sheet accompanied by a letter to the RRD district project manager. The letter must provide a detailed explanation of the QCs reasoning for the use of the proposed IC as the preferred alternative to the existing CAP *and* document that this reasoning relies solely on the data and information contained within the previously submitted FAR. In this situation, submittal of additional documentation will not be required prior to the RRD's review of the proposed IC.
2. In a situation similar to No. 1, but where the proposed IC relies on new or other information or data not included in the previously submitted FAR, the QC shall submit the proposed IC in the same manner as described in No. 1, except that the QC shall submit the new or other information or data with the letter. The letter must provide a detailed explanation of the QCs reasoning for the use of the proposed IC as the preferred alternative to the existing CAP *and* also designate that the new information or data is submitted as a supplement to the previously existing FAR.

Once the RRD concurs with the specific language of the IC, the approved IC must be included in a final version of the Closure Report and submitted to the MDEQ upon completion of the corrective action pursuant to Section 21312a of the NREPA. After receiving a final version of a Closure Report, the MDEQ may audit it in accordance with Section 21315 of the NREPA.

In order to assure that off-site ICs are reviewed in a timely manner, QCs must clearly identify when an off-site IC is included in any FAR submitted. Additional instructions regarding the submission of proposed off-site ICs as part of new FAR/CAP submissions are contained in RRD Operational Memorandum No. 6.

The MDEQ encourages QCs to review all reports with the O/O prior to submitting the report. This action will help ensure that the O/O is familiar with the information contained within the report, including the investigative or remedial approach the QC intends to implement at a site, why the approach is appropriate for the site, and how that approach meets the O/Os Part 213 compliance obligations.

As noted above, while the RRD can no longer continue to review draft submittals, the RRD recognizes that consultation between QCs and RRD staff regarding specific technical issues that arise at sites will still be necessary. The RRD will continue to provide such guidance to the extent its resources allow. The RRD requests that QCs seek such input prior to the submission of a FAR or Closure Report by contacting the appropriate RRD personnel in the district office responsible for the site in question.

Thank you for your cooperation in this matter. If you have any questions, please feel free to contact Ms. Sharon Goble, Part 213 Specialist, RRD, MDEQ, at 517-241-8559.

cc: District Supervisors, MDEQ
Part 213 District Project Managers, MDEQ
Ms. Sharon Goble, MDEQ
Ms. Terri Harmon, MDEQ

A handwritten signature in black ink, appearing to read "Chris Hayward", is located in the lower right portion of the document.